UNITED STATES PATENT AND TRADEMARK OFFICE

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10/686,824	10/16/2003	Michael R. Furst	A2486Q-US-NP XERZ 2 01278	8480

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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 August 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *34-45* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *34-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claims 34-45 are pending for examination.

Claims 1-24 are cancelled.

Claims 25-33 are withdrawn from consideration.

Claims 34-45 are rejected.

Response to Arguments

1.   Applicant's arguments with respect to claim 34 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

     1.   Determining the scope and contents of the prior art.
     2.   Ascertaining the differences between the prior art and the claims at issue.
     3.   Resolving the level of ordinary skill in the pertinent art.
     4.   Considering objective evidence present in the application indicating
             obviousness or nonobviousness.

4.   Claims 34-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over

US 2002/0049839, Miida and US 7 126 716, Kaufman et al.

5.   As per claim 34, Miida teaches a system for interfacing peripheral hardware

devices with a controller comprising:

a services layer comprised of instruction sets for performing tasks (paragraphs

143 and 148, where the operational programs are stored in a memory such that they

cause the CPU to perform tasks associated with the method);

a common device model agent (CDMA) comprised of:

a device independent services environment for executing software to perform

services on a peripheral hardware device (paragraph 338, where any number of devices

may utilize the method as described);

a device model agent (DMA) software within a device which enables a user to

select services to be run on peripheral hardware devices and also provides security

(paragraph 184, where the control unit collaborates with the collecting control unit to

retrieve device information, also paragraph 8, where the system may securely inform

users of information), the DMA comprised of:

a service manager which loads software to be executed, maintains lists of

currently installed services, and manages the lifecycle of services, wherein

lifecycle includes add, delete, modify, customize, synchronize, and register

software services (paragraphs 184-185, where the control unit of the central

server maintains device lists and selects a suggestion file based on usage

statistics and status information. Status information for a device that is

maintained serves as a registration for the device, as the status of the device is

updates with the server); and,

a common provider applications programming interface (API) which

communicates device configurations, device status, and supply levels between

the peripheral hardware devices and Service Manager (paragraph 184, where

the control unit collaborates with the collecting control unit to retrieve device

information, also paragraph 144, where the information is retrieved from the

transmission devices local to the hardware utility),

at least one provider application programming interface (API) to provide the

software specific functions, procedures and methods (paragraph 147, provider); and,

at least one peripheral hardware device which performs functions in response to

the execution of the software (paragraphs 165-167, where the transmission device

receives status information from the device and sends it to the control center upon

request).

Miida does not expressly teach that the software is run on peripheral devices to perform

product enhancements. Kaufman teaches a printing system comprising:

a services layer comprised of instruction sets for performing at least one of the

tasks of performing break-fix repairs, self-help problem solving, performing product

enhancements and performing product integration (column 7, lines 14-19, where the

settings may be viewed and modified utilizing a format such as XML, also column 8, line

13-19, where the user may download software updates to the device);

a common device model agent (CDMA) comprised of: a device independent

services environment for executing software to perform at least one of the services of

automated meter reads, productivity reporting, software download, assisted user self-

help, remote diagnostics, and prognostics at run time on a peripheral hardware device

(column 7, lines 14-19, where the settings may be viewed and modified utilizing a

format such as XML, also column 8, line 13-19, where the user may download software

updates to the device);

a device model agent (DMA) software written in a platform independent language

and embedded within a device which enables a user to select services to be run on

peripheral hardware devices (column 5, line 61 to column 6, lines 8, where the printer

may run a web server that may provide data to the user over HTML, where the user

may process and display the information on a plurality of devices);

at least one provider application programming interface (API) to provide the

software specific functions, procedures and methods (column 7, lines 14-19, where the

settings may be viewed and modified utilizing a format such as XML, also column 8, line

13-19, where the user may download software updates to the device); and,

at least one peripheral hardware device which performs functions in response to

the execution of the software (column 7, lines 14-19, where the settings may be viewed

and modified utilizing a format such as XML, also column 8, line 13-19, where the user

may download software updates to the device).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to utilize a printer updating scheme such as taught by Kaufman in a printer information

system such as taught by Miida. Miida's system generally allows a device to send

information representing the status of a printing device, and the recipient can then make

suggestions regarding performance of the printing device. Kaufman's system allows a

manager to update software and make other performance upgrades through a network.

Miida's system would benefit from this, as the suggestions regarding performance of the

printing device may go further than hardware life-cycle information (Miida, abstract) and

also include software life-cycle information, which may be updated regularly by the

manufacturer (Kaufman, column 8, lines 19-21).

6.   As per claim 35, Miida further teaches a common information model application

programming interface (CIMAPI) that visually represents commonly used data and

application methods (paragraph 156, also Figs. 9 and 15-17 and associated description,

where a web page may be displayed to inform individuals of information from the central

server).

7.   As per claim 36, Miida further teaches a common interface model object

manager (CIMOM) (paragraph 156, also Figs. 9 and 15-17 and associated description,

where a web page may be displayed to inform individuals of information from the central

server, also paragraphs 184-185, where the control unit of the central server maintains

device lists and selects a suggestion file based on usage statistics and status

information).

8.   As per claim 37, Miida further teaches the instruction sets for performing tasks

includes printing (paragraph 250, where services may be related to a printer).

9.   As per claim 38, Miida further teaches the instruction sets for performing a task

includes instruction sets for a remote monitoring service (paragraph 186, where the

status information of a device is analyzed at the control center, remote from the printing

devices).

10.   As per claim 39, Miida further teaches the instruction sets include instruction sets

for supplies replenishment (paragraph 186, where the status information of a device is

analyzed such that a suggestion may be made for supplies to be ordered or changed,

as in paragraph 274).

11.   As per claim 40, Miida teaches a system for interfacing peripheral hardware

devices with a controller comprising:

        a services layer comprised of instruction sets for performing tasks (paragraphs

143 and 148, where the operational programs are stored in a memory such that they

cause the CPU to perform tasks associated with the method);

        a common device model agent (CDMA) comprised of:

        a device independent services environment for executing software to perform

services on a peripheral hardware device (paragraph 338, where any number of devices

may utilize the method as described);

        a common information model application programming interface (CIMAPI) that

visually represents through the use of a visual display medium commonly used data and

application methods (paragraph 156, also Figs. 9 and 15-17 and associated description,

where a web page may be displayed to inform individuals of information from the central

server);

        a device model agent (DMA) software within a device which enables a user to

select services to be run on peripheral hardware devices and also provides security

(paragraph 184, where the control unit collaborates with the collecting control unit to

retrieve device information, also paragraph 8, where the system may securely inform

users of information), the DMA comprised of:

a common interface model object manager (CIMOM) (paragraph 156, also Figs.

9 and 15-17 and associated description, where a web page may be displayed to inform

individuals of information from the central server); and,

a service manager which loads software to be executed, maintains lists of

currently installed services, and manages the lifecycle of services, wherein lifecycle

includes add, delete, modify, customize, synchronize, and register software services

(paragraph 186, where the status information of a device is analyzed such that a

suggestion may be made for supplies to be ordered or changed, as in paragraph 274);

and,

a common provider applications programming interface (API) which

communicates device configurations, device status, and supply levels between the

peripheral hardware devices and both the CIMOM and Service Manager (paragraphs

184-185, where the control unit of the central server maintains device lists and selects a

suggestion file based on usage statistics and status information. Status information for a

device that is maintained serves as a registration for the device, as the status of the

device is updates with the server),

at least one provider application programming interface (API) to provide the

software specific functions, procedures and methods (paragraph 147, provider); and,

at least one peripheral hardware device which performs functions in response to

the execution of the software (paragraphs 165-167, where the transmission device

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request).

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(column 7, lines 14-19, where the settings may be viewed and modified utilizing a

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and embedded within a device which enables a user to select services to be run on

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It would have been obvious to one of ordinary skill in the art at the time of the invention

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suggestions regarding performance of the printing device. Kaufman's system allows a

manager to update software and make other performance upgrades through a network.

Miida's system would benefit from this, as the suggestions regarding performance of the

printing device may go further than hardware life-cycle information (Miida, abstract) and

also include software life-cycle information, which may be updated regularly by the

manufacturer (Kaufman, column 8, lines 19-21).

12.   As per claim 41, Miida further teaches the instruction sets for performing tasks

includes instruction sets for printing (paragraph 250, where services may be related to a

printer).

13.   Claims 42-45 are substantially the same as claims 34-37, directed toward a

method rather than a system. Miida teaches a method as well as a system (title). Claims

42-45 are therefore rejected under the same basis as claims 34-37.

Conclusion

14.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to THOMAS RICHARDSON whose telephone number is

(571) 270-1191. The examiner can normally be reached on Monday through Thursday,

8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TR
/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444